

# State of Utah

## Title and Escrow Commission Meeting

### Meeting Information

Date: **February 12, 2007**

Time: 8:30am

Place: **Backman Title**

167 E 6100 S, Ste 250

### Members

(Attendees = x)

#### Commission Members

xChairperson, Darwin L. Johnson, *Wasatch* xJoyce W. Clark, *Washington*

xDavid M. Lattin, *Salt Lake*

xGlen W. Roberts, *Utah*

xR. Curt Webb, *Cache*

#### Department Staff

John E. "Mickey" Braun, Jr.  
*Ass't Commissioner*

xPerri Babalis

*AG Legal Counsel*

xDarrel Powell

*Dir. Market Conduct*

xMark Kleinfeld

*Admin. Law Judge*

Gerri Jones

*MC Examiner*

xSheila Curtis

*MC Examiner*

xJilene Whitby

*PIO/Recorder*

## MINUTES

- I. **Welcome and Introductions** / Darwin L. Johnson, Chair  
At 8:38 a.m. Darwin began the meeting.
- II. **Adoption of Minutes of Previous Meeting**  
Joyce made a **motion** to approve the minutes. Darwin wanted to make it clear that in item 4 he had meant to say that some builders failed to pay some jobs so that liens would lapse. Curt seconded the motion and the vote was unanimous in its favor.
- III. **Review & Concur with Licensee Report**  
Sheila verified that the report lists those licensees based on the expiration date of their license. Curt **moved** to accept the report, David seconded it and the vote was unanimous in its favor.
- IV. **Number of Cases Open & Closed** / Sheila  
Sheila distributed a nine page report providing information about cases the title examiners were working on in 2006 to the present time. Page nine included the number of cases open and closed during the months of December 2006 and January 2007. A separate additional page was also included showing the total number of violations with their related code citations. Curt asked what the code references referred to. Perri said 31A-23a- 406 dealt with HUD, 31A-23a-402 dealt with unfair marketing practices, 31A-23a-409 dealt with trust obligations for funds collected, 31A-23a-103 dealt with insurance fraud and Rule R590-99 is entitled, Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices. Sheila said that most of these violations were for failure to provide the reports when required to. Sheila said those complaints that were obviously fraudulent were given directly to the Fraud Division. Information on cases in either the Fraud Division or the department are confidential and cannot be released, even to each other unless a GRAMMA request is provided or the case is closed. Curt **moved** to approve report, Joyce seconded it and the vote was unanimous. Commission members asked that the report be placed on the web. Perri agreed it did not contain confidential information. Darrel will get Mickey's approval. Joyce expressed appreciation for the opportunity to look at this several days before the meeting and asked if they could continue to get it early. The department agreed to do this.

V. **Review & Concur with Enforcement Case Report**

Mark reviewed e-case #1840 with the Commission. Respondent failed to [respond](#) to two letters sent by the department. It was found that the respondent had been working in a new office when the first letter came and was in the hospital when the second letter came. Based on extenuating circumstances it was recommended that the standard fine of \$500 be reduced to \$200. Curt made a **motion** to concur, Glen seconded it and the vote was unanimous.

VI. **Old Business**

• **Discussion of HB415, Real Estate Related Transactions and Regulations**

- Paul Newton, President of ULTA, was present during the discussion and updated the Commission on ULTA's position and actions regarding the bill. The bill is sponsored by Representative Dougall and is still in Rules. ULTA is trying to keep it there. There is no room for negotiation with the terms of this bill. If it cannot be kept in Rules then members of the subcommittee it is assigned to will need to be contacted. Hopefully it will go to the House Business Standing Committee. Five of the members of that committee are also members of the Rules Committee.
- It appears that the bill may be the result of a recent decision made by the Commission not to allow dual licensing. The person involved in this issue did not think they had been given the opportunity to address the issue with the Commission or the department so he went to Representative Dougall. Both Darwin and Curt had verbally invited him to attend the meetings when it was discussed. Curt asked Dougall to withdraw the bill but he said no.
- Dougall is not involved in the title, banking or insurance business.
- Tom Hatch is working to defeat it. Paul noted that Utah has a controlled business statute and law against multiple licenses. This is a consumer protection issue. Darwin said that in a conversation with licensee who wanted the dual license, they stated that they did not intend a bill be written and filed like HB 415.
- Curt asked if UAR was pushing this bill? Paul did not know.
- Perri noted that the licensee had not gone through the proper channels with the department to change or waive the law to allow two licenses. Paul said that we can't apologize to him, as has been suggested. This would require giving him the exception, which would then open the floodgates. Paul said they were asking the Bankers Association for help in defeating the bill. They are split over the interest payment issue. One of the major banks will personally ask their people on the hill to oppose it.
- If the bill is killed a group will get together to plan how to fight it in the future.
- Curt read the names of those on the Rules Committee and the House Business Committee and encouraged Commission members to personally contact any they knew. Curt noted that you could change a bill on the floor easier than you can kill it.
- Paul said that ULTA was opposed to HB 415 and would not negotiate. Curt made the **motion** to take the same stand. Joyce seconded it and the vote was unanimous.
- Paul noted a number of articles had been written in major magazines about the title business making too much money. The Insurance Department's charge is to make sure title is not making too much money. California is trying to reduce their title rates. New York has done it already. HB 415 will disallow the Commission from making a marketing rule. Other states are looking at Utah's laws in their effort to eliminate their title marketing problems.
- Darwin asked what our fallback position would be if we were forced to negotiate? Paul suggested allowing a longer period of inactivity for a licensee. Darwin asked what would be required to inactivate a license? Sheila said the license could be allowed to lapse and then reinstate it before it is cancelled.
- Curt noted that the licensee who wanted two licenses did not need two to do what he [wanted](#) to. Sheila noted that the department has discovered that the licensee already has two licenses. Perri wondered why the licensee brought the issue to the

Commission then. Sheila said an individual couldn't have two licenses even if one is lapsed. A rule would have to be changed to allow this and that would take about 60 days to do.

- **Escrow Instructions - Update** / Glen

Glen said he has not had time to put this together but would for the next meeting.

- **Results of Curt's Discussion with Rep. Dougall**

See above.

- **Constitutionality of 31A-23a-407** / Perri

Perri noted that on appeal the parties have all submitted new documents. In reviewing them the judge has found nothing to refute his previous decision that this law is constitutional. She will continue to keep the Commission up-to-date on the progress of this case.

VII. **New Business**

- **Combining Marketing Practices into one Rule (R590-130, 153, 154)**

Sheila provided the Commission with the progress on this rule. There is still more to be done in combining the title marketing requirements of these rules. Once everything is in place the department will give the rule to the Commission to make the changes, additions or deletions they wish. Perri said that if HB415 passes the Commission would not have authority to do this. Darwin asked that the purple or red text be changed to green to distinguish between the two easier.

- **Commission Member Replacement, Procedures & Recommendations**

Perri said the Governor appoints Commission members. He has a person that handles it. The process takes quite a while. Joyce and Darwin's terms will expire July 2007. Counties already represented on the board cannot be duplicated. Glen asked that the information, restrictions and application regarding this process be put on the web. Applications need to be in by the end of April. Jilene will gather this information, put it on the web and email it to licensees. Several members thought the board needed representation particularly from Davis, Weber, Iron or Millard counties.

- Darrel noted that the department would be putting on three-hour ethic classes in Moab, Price and Vernal. Glen suggested giving this information to Paul to put in ULTA's newsletter.

VIII. **Other Business from Committee Members**

None

IX. **Reminder:** The next Liaison Meeting is the first Monday of each quarter.

X. **Adjourned:** Curt **moved** to adjourn, Glen seconded it and the vote was unanimous.

XI. **Next Meeting** March 12, 2007, 9:00 a.m., at Backman Title.

***Next Meetings***

*9:00 a.m.*

~~January 8, 2007~~

~~February 12, 2007~~

March 12, 2007

April 11, 2007

May 9, 2007

June 13, 2007

July 11, 2007

August 8, 2007

September 12, 2007

October 10, 2007

November 14, 2007

December 12, 2007